

LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS TRIBAL COURT

BRIAN K. HOPKINS,

Plaintiff,

Case No. C-059-0505

v.

Enrollment Appeal Decision

LITTLE TRAVERSE BAY BANDS OF
ODAWA INDIANS ENROLLMENT OFFICE,

Defendant.

DECISION OF THE COURT

A. Issue Presented:

Whether the Tribe made a clear error denying Plaintiff's application for membership?

B. Findings of Fact:

1. Plaintiff applied to become a member of the Tribe in November 2004.
2. The application was denied on April 3, 2005 for the reason that the applicant was deemed to have less than one-quarter (1/4) or more Indian blood quantum as required by tribal law to become an enrolled member of the Tribe.
3. The Plaintiff is aggrieved because several of his extended family members are enrolled as a result of the Tribe "grandfathering" the enrollment of individuals who were enrolled during a brief period of tribal history when a mistaken presumption was adopted by the then-sitting Tribal Council.
4. When the Tribe's corrected its mistake, it recognized the unfairness of disenrollment of those who had gained membership because of the mistake the **Tribe** made. Thus, those members were allowed to remain to be enrolled.

5. Plaintiff filed this appeal on May 10, 2005.
6. Plaintiff feels this Court has the authority to overturn any tribal decision that he perceives is unfair.

D. Conclusions of Law:

1. The beginning point for legal analysis of this appeal is the standard of review applicable to the instant matter.
2. WOTC § 2.114(C) provides *"The sole purpose of the Appeals Process will be to determine if there has been a **clear error** ... based on the evidence and documentation provided by the applicant to the Enrollment Department. The Tribal Court shall only overrule the declination ... if the evidence cannot reasonably be construed to support the action of the Tribal Council."* (Bold added for emphasis).
3. Plaintiff has not demonstrated clear error in the declination of his membership application. His application for tribal membership was received after the window of full-blood presumption was closed.
4. It is unfortunate that the mistake made by the Tribal Council has these unintended consequences, but this Court has no authority, absent a finding of clear error, to overturn the enrollment decision.

**WHEREFORE, FOR ALL OF THE FOREGOING,
this Court denies Plaintiff's appeal and hereby
dismisses this matter.**

09/30/06
Date

Honorable Michael Petoskey
Chief Judge